

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 841 of 1993

Date of decision: 20-10-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PATEL DILIPKUMAR RAMNIKLAL

Versus

STATE OF GUJARAT

Appearance:

MR DP VORA for Petitioner
Miss Siddhi Talati for Respondent No. 1
MR KM PATEL for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/10/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Respondent No.3 institution is receiving 100% grant in aid and it is running industrial training institute. The petitioner was appointed as Junior Clerk in the pay-scale of Rs.260-400 on 23rd October, 1982 on temporary basis. In 1985 he came to be appointed on regular basis. The on 23rd April, 1986 he was selected for the post of Senior Clerk, which appointment was approved by the Director of Employment and Training.

2. In this special civil application challenge has been made to the order annexure-D dated 19th January, 1993 by which the services of the petitioner came to be terminated. This Court has protected the petitioner by granting interim relief. The parties are not at issue that this interim relief is continued till date. The respondents have come up with the case that three trades are discontinued from the institution due to reduction in the total seats. With the strength of students receiving training in the institution, only one junior clerk has to be there as per the staffing pattern. The petitioner is therefore surplus staff.

3. The counsel for the petitioner submitted that posts of junior clerk are available in the institution and the petitioner is ready to go as junior clerk. On this fact no dispute has been made by the respondents. When in the institution the post of junior clerk is available, and the petitioner is ready and willing to go as junior clerk, there should not have been any difficulty in absorbing him on such post. However, the counsel for the respondents has fairly submitted that this exercise will be made by the respondents.

4. In view of the aforesaid submission made by the learned counsel for the respondents, the special civil application is disposed of in terms that the claim of the petitioner for absorption as junior clerk be considered within a period of three months from the date of receipt of the writ of this order and appropriate order be passed. In case, for the reasons to be recorded in writing, the petitioner cannot be absorbed, then copy of the same may be sent to the petitioner by registered post. In case of difficulty, liberty is granted to the petitioner for revival of this special civil application. Till the matter of absorption of the petitioner as junior clerk is decided by the respondents, the interim relief granted earlier by this court shall continue. Special civil application and the rule stand disposed of accordingly.

No order as to costs.

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